

### REMARKS/ARGUMENTS

Claims 1 – 5 remain in this application. Claims 6, 9 and 10 have been canceled, and claims 7, 8 and 11 have been withdrawn.

Independent claim 1 has been amended in the manner suggested by the examiner to obviate the noted informality.

Claims 1 – 5 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, and 6 – 8 of U.S. Patent No. 6,609,719. That patent and this application are commonly owned by the inventor, Troy A. Heien, as is shown on the face of the patent and in the filing documents of this application. A terminal disclaimer that is in compliance with 37 CFR 1.321(c) accompanies this amendment, and that disclaimer serves to overcome the double patenting rejection.

A petition for extension of time together with the requisite fee also accompanies this amendment.

All rejections of record have been obviated or otherwise overcome by the amendment to claim 1 and through submission of the terminal disclaimer. Applicant therefore respectfully requests that the Examiner issue a Notice of Allowance and pass the application to issue.

Respectfully submitted,



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